

### **EXAMINER'S AMENDMENT**

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Applicant's representative Eric Nelson on 12/19/08.

The application has been amended as follows:

In reference to Claim 1

In line 18, "performs" has been replaced with --is configured to perform--. In line 19, "selects" has been replaced with --select--. In line 21, "each time point" has been replaced with --a given time--. In line 22, "contraction wave" has been replaced with --contraction waveform--.

In reference to Claim 2

In line 2, "calculates" has been replaced with --is configured to calculate--. In line 4, "evaluates" has been replaced with --evaluate--.

In reference to Claim 4

In line 2, "performs" has been replaced with --is configured to perform--. In line 4, "generates" has been replaced with --generate--.

In reference to Claim 5

Art Unit: 3736

In line 18, "performs" has been replaced with --is configured to perform--. In line 20, "calculates" has been replaced with --calculate--. In line 21, "each time point" has been replaced with --a given time--.

In reference to Claim 8

In lines 5, 8, 9, and 11, "a step of" has been deleted. In line 15, "the step of" has been deleted. In line 18, "each time point" has been replaced with --given time--.

In reference to Claim 9

In line 2, "the step of" has been deleted.

In reference to Claim 11

In line 2, "the step of" has been deleted.

In reference to Claim 12

In line 1, "The method" has been replaced with --A method--. In lines 5, 8, and 11, "a step of" has been deleted. In line 15 "the step of" has been deleted. In lines 18-19 "each time point" has been replaced with --a given time--.

In reference to Claim 15

In line 2, "calculates" has been replaced with --is configured to calculate--. In line 4, "evaluates" has been replaced with --evaluate--.

In reference to Claim 18

In line 2, "the step of" has been deleted.

In reference to the Abstract

The abstract has been replaced with the following: "An apparatus and method for evaluating the degree of work comfort of a user is disclosed. A pair of sensors

Art Unit: 3736

detect myoelectric potentials of a pair of bilaterally symmetrical muscles. A waveform processing unit generates a synchronous contraction waveform by either using the smaller value between signals from the two muscles at a given time, or by determining the geometric mean between the signals at a given time. An evaluation unit uses the intensity or frequency information from the synchronous contraction waveform to evaluate the user's level of comfort performing a task such as driving."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOHN PANI whose telephone number is (571)270-1996. The examiner can normally be reached on Monday-Friday 7:30 am - 5:00 pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on 571-272-4726. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Application/Control Number: 10/522,023  
Art Unit: 3736

Page 5

JP 12/19/08

/Max Hindenburg/  
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